


County of Loudoun
Department of Planning
MEMORANDUM

DATE: December 11, 2008

TO: Loudoun County Planning Commission

FROM: Sophia S. Fisher, Planner 

SUBJECT: December 16, 2008 PC Worksession—ZMAP 2007-0011 &
SPEX 2007-0057, Cameron Chase Village Center

Background

The Planning Commission discussed this application at the November 13, 2008 Worksession. The two outstanding issues carried forward from the October 16, 2008 Public Hearing were 1) that the applicant had not provided a landscaping plan for the entire site; and 2) that the applicant's transportation proffer does not meet the policies of the Countywide Transportation Plan (CTP). Since the November 13 Worksession, the applicant has provided a comprehensive landscape plan for the entire Cameron Chase Village Center that contains enough detail to satisfy Zoning's request that the plan be enforceable (Attachment 3).

The Office of Transportation Services (OTS) has recently been working with the Board of Supervisors to review existing proffers and to determine if there is proffer money that can be reallocated to fund transportation improvements. The third westbound lane of Farmwell Road is not currently included on the list of potential projects identified that might receive the reallocated proffer funds.

OTS continues to recommend that the applicant proffer to construct the third westbound lane of Farmwell Road from Smith Switch Road to Ice Rink Plaza, which exceeds the applicant's current proffer.

Outstanding Issues

- The applicant's transportation proffer does not meet CTP Standards Policies that state that new development shall not occur unless the roads impacted operate at LOS D or better after the traffic from the proposed new development is absorbed.

Staff from the Office of Transportation Services will attend the meeting to discuss the outstanding issue.

Recommendation

Staff can recommend approval of the application if the outstanding issue is resolved.

Motions

1. I move that the Planning Commission forward of ZMAP 2007-0011 and SPEX 2007-0057, Cameron Chase Village Center to the Board of Supervisors with a recommendation of approval subject to the draft Proffer Statement dated December 4, 2008 and with the attached Findings, and subject to revisions as discussed at the Worksession.

Or,

2. I move an alternate motion.

Attachments

1. Findings and Special Exception Conditions
2. Applicant response letter dated December 5, 2008
3. Draft proffers dated December 4, 2008
4. Landscape plan dated December 4, 2008

ZMAP 2007-0011 & SPEX 2007-0057
Cameron Chase Village Center
December 11, 2008

FINDINGS

Zoning Map Amendment (ZMAP 2007-0011)

1. The conversion of this property to the PD-CC(CC) zoning district would be more consistent with the land use policies contained in the Revised General Plan, which designates the area as Residential.
2. The requested district provides a set of uses that are more consistent within an area planned for a residential community
3. The application conforms to the policies contained in the Revised General Plan.
4. The proposed rezoning does not meet requirements of Revised 1993 Zoning Ordinance; there is no additional landscaping proffered to mitigate the impacts of reducing the buffer yards and setbacks.

Special Exception (SPEX 2007-0057)

1. The request to remove the nonconforming use is in line with County policy to promote economic development through reinvestment in existing businesses, as outlined in the Revised General Plan.
2. The proposed Special Exception request to allow the continued operation of the Ashburn Ice House is consistent with the policies of the Revised General Plan.

SPECIAL EXCEPTION CONDITIONS OF APPROVAL

(SPEX 2007-0057)

1. This Special Exception is to remove the nonconforming status from the Ashburn Ice House. The property shall be developed in substantial conformance to the "Ashburn Ice House" Special Exception Plat, prepared by Bohler Engineering, dated December 7, 2007 and revised through June 2, 2008. Approval of this application does not relieve the Applicant of any Zoning Ordinance, Codified Ordinance, or any other requirement.
2. The applicant shall establish a pedestrian trail connecting the skating center with the pedestrian trail on the Cameron Chase property when the trail is constructed by Cameron Chase.

3. In addition to the required Type II buffer, there shall be landscaping and/or berming to accomplish an equivalent opacity of a six foot fence between this use and the houses in Cameron Chase.
4. The applicant shall direct all lighting away from residentially zoned property and install low-intensity lighting and/or baffles to provide a lighting scheme that is appropriate for residential settings.

ReedSmith

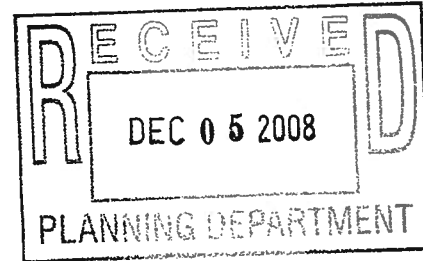
Georgiana M. Pardo
Direct Phone: 703.729.8535
Email: gpardo@reedsmith.com

Reed Smith LLP
44084 Riverside Parkway
Suite 300
Leesburg, VA 20176-5102
703.729.8500
Fax 703.478.8003

December 5, 2008

VIA HAND DELIVERY

Sophia Fisher
Loudoun County Department of Planning
1 Harrison Street, S.E., Third Floor
Leesburg, Virginia 20176



Re: Cameron Chase Village Center - ZMAP 2007-0011 and SPEX 2007-0057

Dear Sophia:

The Cameron Chase Village Center Applicant has prepared an additional landscape plan for the subject property in response to staff's request to further improve the landscaping on lot 3 of the property. I am enclosing the plan for your review along with a copy of the proffer statement with revisions to accommodate the plan. The plan proposes to install 10 Leyland Cypress trees per year for the next five years along the northern lot 3 property line. We believe this plan resolves any outstanding issue relating to landscaping as it supplements the landscaping improvements planned along Farmwell Road and previously incorporated into our proffer statement. Please let me know immediately if you perceive some way in which it does not.

Regarding the only other outstanding issue, the Office of Transportation Services' request that the Applicant proffer to construct a third westbound lane of Farmwell Road from Smith Switch Road to Estate Place, the Applicant offers the following in addition to the responses previously filed with the application.

It is uncontested that: (1) the Farmwell Road/Smith Switch Road intersection will operate at an overall LOS F due to existing and approved development with or without the proposed rezoning; (2) the traffic that is conservatively estimated to be generated by the proposed rezoning would constitute only 1% to 3% of the traffic on the road; and (3) the addition of a third westbound lane of Farmwell Road ending at Estate Place would only worsen conditions at that intersection, which already operates at LOS F. In sum, the existing and future level of service deficiencies in the vicinity of the subject property have not been and will not be caused or generated by the very small impact of the proposed rezoning. Indeed, Art Smith himself opined at the Planning Commission public hearing on this application that a large part of the traffic on Farmwell Road is due to motorists detouring to avoid tolls on the Dulles Greenway.

NE

ATTACHMENT 2

D.C. ♦ BEIJING ♦ PARIS ♦ LOS ANGELES ♦ SAN FRANCISCO ♦ PHILADELPHIA ♦ PITTSBURGH ♦ OAKLAND
♦ WILMINGTON ♦ SILICON VALLEY ♦ BIRMINGHAM ♦ DUBAI ♦ CENTURY CITY ♦ RICHMOND ♦ GREECE
r e e d s m i t h . c o m

US_ACTIVE-100805571-GMPARDO 12/5/08 10:29 AM

The Office of Transportation Services has asserted that there is a “rational nexus” between the impact of the proposed rezoning and their request for a third westbound lane, but the element of proportionality is missing. Localities in Virginia are authorized to accept reasonable conditions of approval that are voluntarily proffered by rezoning applicants. See Va. Code § 15.2-2303. Similarly, the Supreme Court of the United States has held that development exactions must be proportionate to the impact generated by the development approval sought. The locality must make some sort of individualized determination that the exaction is related both in nature and extent to the impact of the proposed approval. See *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Staff’s request that the Cameron Chase applicant construct a third westbound lane of Farmwell Road is not related in extent to the small traffic impact expected to be generated by the proposed rezoning, nor does staff assert that it is so.

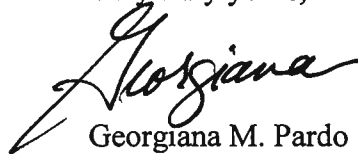
The Office of Transportation Services has cited the level of service policies found in the Countywide Transportation Plan as supportive of its position. The policies at issue state that “land development proposals are reviewed . . . to determine whether the planned transportation network can support the proposed development.” Further, the County uses criteria “to ensure that higher intensity development . . . does not lead to a drop in level of service (LOS) below LOS “D” on roads.” Revised Countywide Transportation Plan, p.4-4 (emphasis added). Finally, specific LOS Standards Policies provide that “land development will only occur along roads that currently function at level of service ‘D’ or better”, and “level of service ‘D’ or better must be demonstrated for new development . . .” Revised Countywide Transportation Plan, p. 4-5 (emphasis added). The subject property is already fully developed but for one small pad site that the owner hopes to develop with a bank, which is a use permitted by-right under the existing zoning. In other words, the proposed rezoning will not entail any “new development” or “higher intensity development”. The improvements are all substantially completed and/or permissible with or without the proposed rezoning. The Office of Transportation Services’ citation of the level of service policies does not support their position.

The Applicant also notes that the soon to be completed extension of Gloucester Parkway to Loudoun County Parkway should provide an alternate route for some of the motorists currently using Farmwell Road, thus reducing the westbound background traffic at the intersection of Farmwell Road and Smith Switch Road.

Commensurate with the expected impact of the application, the Applicant has proffered to contribute \$15,000 toward the cost of Farmwell Road improvements. The Applicant’s proffered funds might be aggregated with other funds to provide the requested improvements. For example, the Board of Supervisors has authority to approve the aggregation of existing cash proffer balances for use in transportation projects. The Board of Supervisors’ Transportation and Land Use Committee is currently considering the use of several million dollars worth of such funds for various projects around the County, including in the area of the subject property. Ashburn Community Trust Fund monies may also be available to help address the Farmwell Road widening. The exaction of a proportionate share contribution as proffered by the applicant combined with use of funds originating from other area developments would be a legitimate and productive approach to solving the problem.

We believe this addresses all outstanding issues with respect to the application. Please do not hesitate to call me if you have any questions, and thanks in advance for your consideration.

Very truly yours,



Georgiana M. Pardo

GMP/lkg

Enclosures

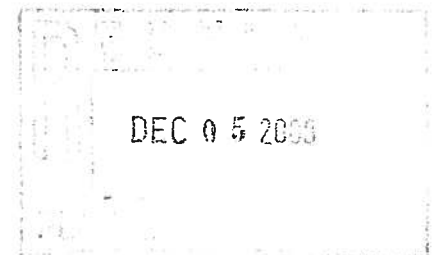
cc: Sam Rank
Larry M. Spott
Brian Cullen
John O'Connell
Mike Mastro
Supervisor Lori L. Waters
Planning Commissioner Robert J. Klancher
Planning Commissioner Christeen F. Tolle, Chairman
Planning Commissioner Gigi Robinson
Planning Commissioner Erin Austin
Planning Commissioner Peggy Maio
Planning Commissioner Chris Brodrick
Planning Commissioner Helena S. Syska
Planning Commissioner Sandra Chaloux
Planning Commissioner Michael J. Keeney

Cameron Chase Village Center
(ZMAP 2007-0011)

PROFFER STATEMENT

DRAFT

July 1, 2008
August 22, 2008
November 6, 2008
December 4, 2008



ATTACHMENT 3

Cameron Chase Village Center

(ZMAP 2007-0011)

PROFFER STATEMENT

~ TABLE OF CONTENTS ~

	<i>Page</i>
PREAMBLE	1
I. <u>CONCEPT PLAN</u>	2
<u>Substantial Conformity</u>	2
II. <u>TRANSPORTATION</u>	2
III. <u>PEDESTRIAN CIRCULATION</u>	2
IV. <u>NORTHERN BOUNDARY LANDSCAPING</u>	2
A. <u>Lot 4 Part A</u>	2
B. <u>Lot 3</u>	3
C. <u>Lot 42A</u>	3
V. <u>FARMWELL ROAD FRONTAGE LANDSCAPING</u>	3
VI. <u>BINDING EFFECTS</u>	3

Exhibits

- Exhibit A:** Zoning Map Amendment Cameron Chase Village Center, prepared by Bohler Engineering, dated December 7, 2007, as revised through June 2, 2008.
- Exhibit B:** Design Modifications for the Cameron Chase Village Center, dated June 2, 2008.
- Exhibit C:** Existing Conditions – 2008 Cameron Chase Village Center, prepared by Bohler Engineering, dated December 4, 2008
- Exhibit D:** Proposed Conditions – 2013 Cameron Chase Village Center, prepared by Bohler Engineering, dated December 4, 2008
- Exhibit E:** Cameron Chase Village Center Site Planting and Improvement Plan, prepared by LANDGARDEN Landscape Architects, Sheet L101, dated May 3, 2007, as revised through October 14, 2008.

Cameron Chase Village Center

(ZMAP 2007-0011)

PROFFER STATEMENT

July 1, 2008

August 22, 2008

November 6, 2008

December 4, 2008

PREAMBLE

Pursuant to the Section 15.2-2303 of the Code of Virginia, 1950, as amended, and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance, as amended, CC-Loudoun Holdings, LLC, owner of MCPI # 060-15-6750, Commonwealth Recreation Partners, LLC, owner of MCPI # 060-16-1531, Cameron Chase Village Center Partners, LLC, owner of MCPI # 061-45-9365 and 060-15-3377, and Navy Federal Credit Union, owner of MCPI # 061-46-0385, (collectively the "Owners") owners of the above-described land amounting to approximately 15.07 acres of real property (the "Property") which is the subject of rezoning application ZMAP 2007-0011, hereby voluntarily proffer that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with the Sheet 3 of the Zoning Map Amendment Cameron Chase Village Center, prepared by the Bohler Engineering, dated December 7, 2007, as revised through June 2, 2008. (Exhibit A) (the "Concept Development Plan"), and the Design Modifications for the Cameron Chase Village Center, dated June 2, 2008, and revised through November 6, 2008 (Exhibit B), which are attached and incorporated herein by reference. All Proffers made herein are contingent upon the approval by the Board of Supervisors of Loudoun County (the "Board") of the change in the zoning district requested in rezoning application ZMAP 2007-0011 from the PD-IP zoning district to the PD-CC-CC zoning district, as modified.

I. CONCEPT PLAN

Substantial Conformity. The Property shall be developed in substantial conformity with Sheet 3 of the Zoning Map Amendment Cameron Chase Village Center, prepared by Bohler Engineering, dated December 7, 2007, as revised through June 2, 2008. (Exhibit A) (the "Concept Development Plan"), and the Design Modifications for the Cameron Chase Village Center, dated June 2, 2008, and revised through November 6, 2008 (Exhibit B), which are attached and incorporated herein by reference.

II. TRANSPORTATION

The owner of the parcel identified as Lot 3 on the Concept Development Plan, which is also identified as MCPI 060-15-6750 among the records of the Loudoun County Assessor's Office, shall within 60 days of approval of ZMAP 2007-0011 contribute to the County, or its designee, Fifteen Thousand and 00/100 Dollars (\$15,000.00) to be used for the design and/or construction by others of an additional westbound lane of Farmwell Road across the frontage of the Property. Performance of this proffer shall be the sole responsibility of the owner of the parcel identified as Lot 3 on the Concept Development Plan and none of the owners of the remaining parcels that comprise the Property shall be obligated or responsible in any way to perform or ensure performance by others of this Proffer II.

III. PEDESTRIAN CIRCULATION

The owner of the parcel identified as Lot 3 on the Concept Development Plan, which is also identified as MCPI 060-15-6750 among the records of the Loudoun County Assessor's Office, shall within 60 days of approval of ZMAP 2007-0011 submit a site plan for approval to construct a pedestrian connection linking the shopping center with the roads serving the adjacent residential community as depicted on the Concept Development Plan. The owner of Lot 3 shall construct or bond such pedestrian connection for construction within 90 days of approval by Loudoun County of the site plan. Performance of this proffer shall be the sole responsibility of the owner of the parcel identified as Lot 3 on the Concept Development Plan and none of the owners of the remaining parcels that comprise the Property shall be obligated or responsible in any way to perform or ensure performance by others of this Proffer III.

IV. NORTHERN BOUNDARY LANDSCAPING

A. Lot 4 Part A: The owner of the parcel identified as Lot 4 Part A on the Concept Development Plan, which is also identified as a portion of MCPI 060-15-3377 among the records of the Loudoun County Assessor's Office, shall preserve the overall amount of landscaping present along the northern boundary of that parcel, as of the date of approval of ZMAP 2007-0011, as documented on Existing Conditions – 2008 Cameron Chase Village Center, prepared by Bohler Engineering, dated December 4, 2008 (Exhibit C), provided that the vegetation that makes up the landscaping may be moved, rearranged, and/or removed and replaced to permit future development of that parcel. Performance of this proffer shall be the sole responsibility of the owner of the parcel identified as Lot 4 Part A on the Concept Development Plan and none of

the owners of the remaining parcels that comprise the Property shall be obligated or responsible in any way to perform or ensure performance by others of this Proffer IV.A.

B. Lot 3: The owner of the parcel identified as Lot 3 on the Concept Development Plan, which is also identified as MCPI 060-15-6750 among the records of the Loudoun County Assessor's Office, shall preserve and maintain the landscaping present along the northern boundary of that parcel as of the date of approval of ZMAP 2007-0011, as documented on Exhibit C. The owner of Lot 3 shall further supplement the landscape buffer along the northern boundary of Lot 3 by installing ten Leyland Cypress trees per year in the locations on Lot 3 depicted on Proposed Conditions – 2013 Cameron Chase Village Center, prepared by Bohler Engineering, dated December 4, 2008 (Exhibit D) for five consecutive years beginning in the year in which ZMAP 2007-0011 is approved. Performance of this proffer shall be the sole responsibility of the owner of the parcel identified as Lot 3 on the Concept Development Plan and none of the owners of the remaining parcels that comprise the Property shall be obligated or responsible in any way to perform or ensure performance by others of this Proffer IV.B.

C. Lot 42A: The owner of the parcel identified as Lot 42A on the Concept Development Plan, which is also identified as MCPI 060-16-1531 among the records of the Loudoun County Assessor's Office, shall preserve and maintain the landscaping present along the northern boundary of that parcel as of the date of approval of ZMAP 2007-0011, as documented on Exhibit C. Performance of this proffer shall be the sole responsibility of the owner of the parcel identified as Lot 42A on the Concept Development Plan and none of the owners of the remaining parcels that comprise the Property shall be obligated or responsible in any way to perform or ensure performance by others of this Proffer IV.C.

V. FARMWELL ROAD FRONTAGE LANDSCAPING

The owner of the parcel identified as Lot 3 on the Concept Development Plan, which is also identified as MCPI 060-15-6750 among the records of the Loudoun County Assessor's Office, shall within twelve months of approval of ZMAP 2007-0011 install along the Farmwell Road frontage the landscape vegetation depicted on the Cameron Chase Village Center Site Planting and Improvement Plan, prepared by LANDGARDEN Landscape Architects, Sheet L101, dated May 3, 2007, as revised through October 14, 2008 (Exhibit E). Performance of this proffer shall be the sole responsibility of the owner of the parcel identified as Lot 3 on the Concept Development Plan and none of the owners of the remaining parcels that comprise the Property shall be obligated or responsible in any way to perform or ensure performance by others of this Proffer V.

VI. BINDING EFFECTS

The Owners warrant that they own all interests in the Property; that they have full authority to bind the Property to these conditions; that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms; that the undersigned are fully authorized to sign these Proffers on behalf of each of the respective landowners; and that these Proffers are entered into voluntarily.

OWNERS:

CC-LOUDOUN HOLDINGS, LLC,
a Delaware limited liability company

By: CAMERON CHASE HOLDINGS, LLC,
a Delaware limited liability company
Its: Sole Member

By: _____
Name: Gary D. Rappaport
Title: Manager

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared Gary D. Rappaport, as Manager of CAMERON CHASE HOLDINGS, LLC, a Virginia limited liability company, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF have affixed my _____ and seal this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____

**COMMONWEALTH RECREATION PARTNERS,
LLC,**
a Virginia limited liability company

By: _____
Name: Brian J. Cullen
Title: _____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared BRIAN J. CULLEN, as _____ of COMMONWEALTH RECREATION PARTNERS, LLC, a Virginia limited liability company, who acknowledged that she executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF I have affixed my hand and seal this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____

**CAMERON CHASE VILLAGE CENTER
PARTNERS, LLC,**
a Colorado limited liability company authorized
to conduct business in the Commonwealth of Virginia

By: _____
Name: Mark E. DeRose
Title: Manager

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of CAMERON CHASE VILLAGE CENTER PARTNERS, LLC, a Colorado limited liability company authorized to conduct business in the Commonwealth of Virginia, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____

NAVY FEDERAL CREDIT UNION

a _____ company

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of NAVY FEDERAL CREDIT UNION, a _____ company, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so.

IN WITNESS WHEREOF, I have affixed my hand and seal this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____

EXHIBIT B

DESIGN MODIFICATIONS FOR CAMERON CHASE VILLAGE CENTER

**June 2, 2008
November 6, 2008**

ZONING MODIFICATIONS

Section 6-1504 of the Revised 1993 Zoning Ordinance permits modifications to the zoning and subdivision requirements if the Board finds that such *"modifications will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulation."* As part of this rezoning request, the following modifications are incorporated for the Property.

ZO § 4-205(C)(1)(b)	To reduce the required yard between existing parking and Smith Switch Road from 35 feet to 20 feet, and to permit existing parking between the existing buildings on the Property and streets which may be visible from a road.
ZO § 4-205(C)(2)	To reduce the required yard between the adjacent residential area and buildings and existing parking on the Property from 100 feet to 59 feet, and to permit existing drive aisles, parking, loading, outdoor storage areas, or areas for collection of refuse that may be visible from the adjacent residential area.
ZO § 4-205(C)(3)	To eliminate the required yard between buildings, parking, outdoor storage and loading areas on the Property and other non-residential districts.
ZO § 5-900(A)(10)	To reduce the required setback between existing drive aisles and parking and Farmwell Road from 35 feet to 20 feet.